

1
2
3
4
5
6
7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA
9

10 TODD DANA PIKE,) Case No. CV 09-7531-AG(RC)
11)
12)
13)
14)
15)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)
26)
27)
28)

On October 16, 2009, petitioner Todd Dana Pike, a person in state custody proceeding pro se, filed a "Notification of Intent to File 28 U.S.C. § 2254 Habeas Corpus [Petition]." **However, petitioner has not filed an actual habeas corpus petition setting forth his claims and the facts supporting his claims,** and petitioner provides no information regarding the court in which his conviction took place, nor the date or nature of his conviction or sentence, and whether he appealed his conviction or otherwise attacked it. Without this information, the Court cannot determine whether it has venue and whether petitioner has exhausted his state court remedies.

DISCUSSION

Rule 1 of the Rules Governing Section 2254 Cases in the United

1 States District Courts ("Rules") provides that the Rules "govern a
2 petition for a writ of habeas corpus" filed under 28 U.S.C. § 2254 by
3 a person in custody pursuant to a judgment of a state court. 28 foll.
4 U.S.C. § 2254, Rule 1. Rule 2(c) requires that the petition must:

- 5
- 6 (1) specify all the grounds for relief available to the
- 7 petitioner;
- 8 (2) state the facts supporting each ground;
- 9 (3) state the relief requested;
- 10 (4) be printed, typewritten, or legibly handwritten; and
- 11 (5) be signed under penalty of perjury by the petitioner or
- 12 by a person authorized to sign it for the petitioner under
- 13 28 U.S.C. § 2242.
- 14

15 28 foll. U.S.C. § 2254, Rule 2(c). Rule 2(d) requires that the
16 petition "must substantially follow either the form appended to these
17 rules or a form prescribed by a local district-court rule." 28 foll.
18 U.S.C. § 2254, Rule 2(d). This district court, in Local Rule 83-16.1,
19 has prescribed a habeas corpus petition form, which it makes
20 "available to petitioners without charge." Id.

21

22 Here, petitioner, by failing to file an actual petition for writ
23 of habeas corpus on the prescribed form, failing to set forth his
24 claims and provide the facts supporting his claims, and failing to
25 provide pertinent information, has not complied with Rule 2. Thus,
26 this action is subject to summary dismissal under Rule 4 and Local
27 Rule 72-3.2. Specifically, Rule 4 provides that "[i]f it plainly
28 appears from the petition and any attached exhibits that the

petitioner is not entitled to relief in the district court, the judge must dismiss the petition and direct the clerk to notify the petitioner." 28 foll. U.S.C. § 2254, Rule 4. Similarly, Local Rule 72-3.2 provides:

[I]f it plainly appears from the [habeas] petition and any exhibits annexed to it that the petitioner is not entitled to relief, the Magistrate Judge may prepare a proposed order for summary dismissal and submit it and a proposed judgment to the District Judge.

Local Rule 72-3.2. Since petitioner has not complied with the Rules, the instant action should be summarily dismissed without prejudice.

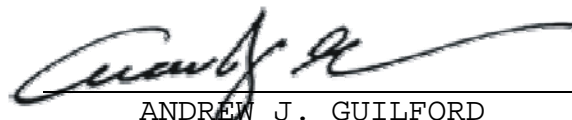
ORDER

IT IS ORDERED that Judgment shall be entered summarily dismissing without prejudice petitioner's request for an extension of time.

The Clerk of Court is ordered to serve this Opinion and Order on petitioner.

The Clerk of Court shall provide petitioner with a form habeas corpus petition under 28 U.S.C. § 2254.

DATE: November 11, 2009



ANDREW J. GUILFORD
UNITED STATES DISTRICT JUDGE

PRESENTED BY:

DATE: October 19, 2009

/S/ ROSALYN M. CHAPMAN
ROSALYN M. CHAPMAN
UNITED STATES MAGISTRATE JUDGE